

**Amendment No. 1 to HB3912**

**Jones U**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 3789\***

**House Bill No. 3912**

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 12-9-103, is amended by adding the following new, appropriately designated subdivisions:

( ) "Local government entity" means any city, town, municipality, county, including any county having a metropolitan form of government, local education agency, development district, utility district, human resource agency or other political subdivision of this state;

( ) "Local government joint venture entity" means any entity created pursuant to this chapter, including, but not limited to, a self-insurance pool, trust, joint venture, nonprofit organization, or any other type of organization that is sponsored, owned, operated, or governed by two (2) or more local government entities as a separate and specific activity.

SECTION 2. Tennessee Code Annotated, Title 12, Chapter 9, Part 1, is amended by adding the following language as new, appropriately designated sections:

§12-9-1\_\_.

Any interlocal agreement entered into by local government entities that creates a local government joint venture entity shall be filed in the office of the comptroller of the treasury within ninety (90) days of execution of the agreement.

Any interlocal agreement entered into by local government entities of this state which created a local government joint venture entity that is currently in effect on the effective date of this act shall be filed with the office of the comptroller of the treasury within one hundred twenty (120) days of the effective date of this act.

§12-9-1\_\_.

(a) Any local government entity of this state entering into an interlocal agreement that creates a local government joint venture entity shall during the term of such agreement file an annual statement with the office of the comptroller of the treasury. The statement shall set forth the names of all parties to the agreement, the annual revenue and expenses of any entity created under the agreement and such other information as shall be required by the comptroller.

(b) The comptroller of the treasury may develop guidelines in furtherance of the administration of this section.

SECTION 3. Tennessee Code Annotated, Section 29-20-401, is amended by adding the following language as a new, appropriately designated subsection:

( )

(1) An insurance pool or reserve fund created and authorized under this section shall be audited annually in accordance with standards established by the comptroller of the treasury. A copy of such audit shall be filed with the comptroller as soon as practical, but in no event later than one hundred twenty (120) days following the end of the pool's or reserve fund's fiscal year. Notwithstanding the foregoing, the operations, books and records of any such pool or reserve fund shall be subject to audit and review by the comptroller or any person authorized by the comptroller.

(2) The comptroller of the treasury is authorized to charge reasonable fees to cover expenses incurred in the course of audits or investigations pursuant to this section.

SECTION 4. Tennessee Code Annotated, Section 29-20-401, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d)

(1) No special fund established by an agreement authorized under this section and under title 12, chapter 9, shall be considered as an

"insurance company" nor shall any contribution of financial or administrative resources to such a special fund be considered a "premium" or "gross premium" under title 56 for any purpose, including regulation and taxation.

(2) There shall be maintained in any special fund created pursuant to this section such an amount of reserve funds as is deemed adequate by the department in accordance with reserve standards applicable to private insurance companies pursuant to title 56, taking into account the provisions of title 29, chapter 20.

(3) An insurance pool or reserve fund created and authorized under this section shall annually, within ninety (90) days of end of its fiscal year, submit to the commissioner of commerce and insurance an actuarial loss reserve study, accompanied by the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts of the pool or reserve fund are in accordance with the provisions of subsection (2) above.

(4) If it is determined by the commissioner of commerce and insurance that matters reported in the actuarial loss reserve study warrant further examination, and such matters are of the type and severity that would, within the department's rules and regulations, prompt an examination of an insurance company engaged in insuring risks similar to the insurance pool or reserve fund, the commissioner or any person authorized by the commissioner of commerce and insurance may examine the loss reserve and reinsurance adequacy of the insurance pool or reserve fund and to determine, in coordination with the comptroller of the treasury, if the pool or reserve fund is being operated soundly for the benefit of the members. In addition, upon request of the comptroller of the treasury or upon the request of the greater of five (5) members or

twenty percent (20%) of the participants in an insurance pool or reserve fund, the commissioner of commerce and insurance may initiate such an examination.

(5) Actuarial loss reserve studies, financial statements of a pool or reserve fund, individual member financial statements, work papers, notes, internal documents filed with or generated by the department of commerce and insurance or any other information obtained by or disclosed to the commissioner of commerce and insurance pursuant to this subsection shall be confidential and shall not be disclosed to the public. This provision, however, shall not apply to any examination report prepared by the commissioner of commerce and insurance, or to any rebuttal to such examination reports submitted by or on behalf of the pool or reserve fund examined. However, nothing contained in this subdivision shall be construed as prohibiting the commissioner of commerce and insurance from disclosing the information listed in this subdivision, or any matters relating to that information, to state agencies of this or any other state, or to law enforcement officials of this or any other state or agency of the federal government at any time.

(6) Any person knowingly or willfully testifying falsely in reference to any matter material to such investigation, examination or inquiry commits a Class A misdemeanor.

(7) Any director, trustee, officer, agent, or employee of an insurance pool or reserve fund or any other person who knowingly or willfully makes any false certificate, entry, or memorandum upon any of the books or papers of any insurance pool or reserve fund upon any statement filed or offered to be filed in the department or used in the course of any examination, inquiry or investigation with the intent to deceive the commissioner of commerce and insurance or any person

appointed by the commissioner to make such examination commits a Class A misdemeanor.

(8) The department of commerce and insurance is authorized to charge reasonable fees to cover expenses incurred in the course of examinations pursuant to this section.

SECTION 5. Tennessee Code Annotated, Section 12-4-101, is amended by adding the following language as a new, appropriately designated subsection:

( ) The provisions of this section shall apply to a member of the board of directors or officer of any nonprofit corporation required under §8-44-102(b)(1)(E) to conduct all meetings of its governing body as open meetings.

SECTION 6. Tennessee Code Annotated, Section 8-6-109(b), is amended by adding the following language as a new subdivision (14) and renumbering subsequent subdivisions accordingly:

(14) To bring suit upon behalf of the state, local government units or local education agencies to recover public funds from entities financed by such funds and their directors or officers when such funds through the improper actions of such directors or officers have been wasted, lost, used for unauthorized purposes, misapplied or misappropriated.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.